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Brian Lane

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MAGINOT, MOORE & BECK, LLP

CHASE TOWER

111 MONUMENT CIRCLE

SUITE 3250

INDIANAPOLIS, IN 46204

EXAMINER

ORLANDO, AMBER ROSE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BRIAN LANE and DAVID PORTER

Appeal 2009-010205
Application 10/521,884
Technology Center 1700

Before PETER F. KRATZ, CATHERINE Q. TIMM, and JEFFREY T.
SMITH, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL¹

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's
decision to reject claims 1-9. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants' invention relates to a coalescing filter element for removing liquid droplets from a gas stream (Spec. 1:1-2). The gas to be treated enters through the top inlet port 18 and is split between the central tube 22 and peripheral openings 28 (Spec. 9-11). The gas entering through tube 22 tends to be projected further into hollow space 20 within the filter element than gas flowing through the peripheral openings 28 (Spec. 8:24-26). This split gas flow can aid distribution of contaminants across the available surface of the filtration material of wall 4 (Spec. 7:16-17 and 8:27-28). An embodiment of the filter element is reproduced below:

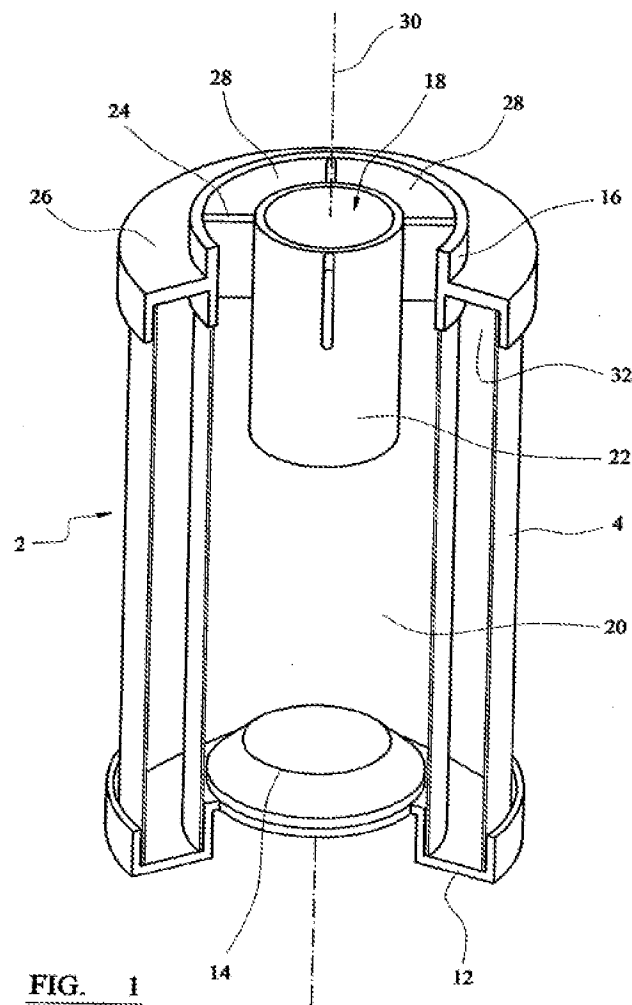


Figure 1 is a cut away view from one side of an embodiment of the filter element (Spec. 7:13-14).

Of particular interest in this appeal is claim 1, the only independent claim on appeal, and particularly, the language emphasized below, with reference numerals from Figure 1 added to illustrate the claimed structures.

1. A coalescing filter element [2] for removing liquid droplets from a gas stream, which comprises a wall [4] which is made of a coalescing filtration material and which defines a hollow space [20] within it, and an end cap [16] at one end of the element which has a port [18] in it through which gas is supplied to the hollow space [20] to flow through the wall [4] of the filtration material, the end cap [16] comprising a peripheral portion [26] which engages the element wall [4] and a tube [22] which extends into the hollow space [20] defined by the element wall [4], so that the *port [18] in the end cap [16] comprises an inner opening defined by the tube [22] and at least one peripheral opening [28] located between the tube [22] and the peripheral portion [26] of the end cap [16]*, with the tube [22] extending beyond the peripheral opening(s) [28] so as to deliver gas to a region of the element wall [4] which is remote from the end cap [16].

The Examiner maintains, and Appellants seek review of, the following rejections:

1. Claims 1-3 and 5-8 rejected under 35 U.S.C. § 103(a) as unpatentable over “Guenter” (Guenter Priess, DE 10 019 293 A1, issued

pub. Oct. 31, 2001)² in view of “Billiet” (Billiet, GB 2 126 497 A, pub. Mar. 28, 1984), and “Gieseke” (Gieseke et al., US 6,143,049, issued Nov. 7, 2000).

2. Claims 4 and 9 rejected under 35 U.S.C. § 103(a) as unpatentable over Guenter in view of Billiet, and further in view of Gieseke, and still further in view of “Ross” (Ross, US 2,754,970, issued Jul. 17, 1956).

II. DISPOSITIVE ISSUE

Does the evidence support the Examiner’s determination that the combination of Guenter, Billiet, and Gieseke suggests a coalescing filter element having a gas supply port including a tube and at least one peripheral opening in the end cap as required by the claims?

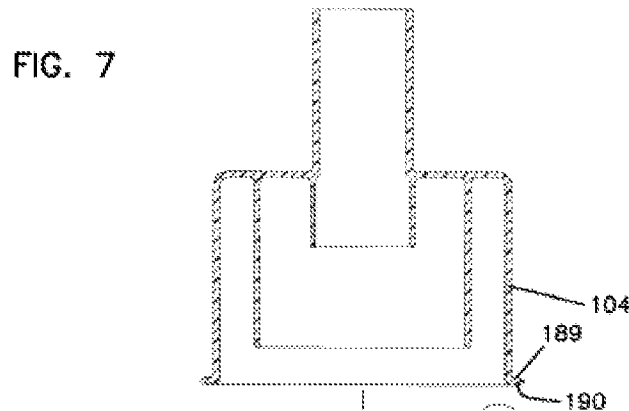
III. DISCUSSION

We agree with Appellants that the Examiner has not established obviousness with respect to the subject matter of the claims. The Examiner finds that Gieseke discloses at least one peripheral opening (passageway 146) located between a tube and the peripheral portion of an end cap (Ans. 4, citing Gieseke, Fig. 6). However, as pointed out by Appellants, the “tube” of Gieseke relied upon by the Examiner is an outlet, not a gas inlet port (Br. 11). The Examiner does not provide a reasonable explanation why one of ordinary skill in the art would have modified the inlet port of Guenter, or the inlet port of Guenter as modified by Billiet, with a structure designed for an outlet port.

² While “Priess” appears to be the last name of the inventor, we refer to the German patent as “Guenter” because that is the name used by both the Examiner and Appellants.

We further note that the passageways 146 of Gieseke are not openings within a port in the end cap. This is best illustrated by the upper portion of Figure 7 of Gieseke, which shows the end cap (cover section 104).

Figure 7 is reproduced, in part, below:



The top of Figure 7 depicts a cross section of housing section 104

The end cap (cover section 104) covers the passageway (area between 104 and baffle). The port is the central tubular portion and the passageway is not a peripheral opening in the end cap.

The evidence does not support the Examiner's determination that the combination of Guenter, Billiet, and Gieseke suggests a coalescing filter element having a gas supply port including a tube and at least one peripheral opening in the end cap as required by the claims. This defect is present in each of the rejections.

IV. CONCLUSION

On the record before us, we do not sustain the rejections maintained by the Examiner.

V. DECISION

The decision of the Examiner is reversed.

REVERSED

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